

REMARKS/ARGUMENTS

The preceding amendments and following remarks are submitted in response to the non-final Office Action mailed December 29, 2003, setting a three-month shortened statutory period for response ending March 29, 2004. Reconsideration, examination and allowance of all pending claims are respectfully requested.

Information Disclosure Statement

In paragraph 1 of the Office Action, the Examiner states that the information disclosure statements filed on 1/31/02 and 7/9/02 fail to comply with 37 C.F.R. § 1.98(a)(2) governing the submission of references in an IDS. The Examiner has placed the 1449 forms for each IDS in the application file, but has refused to consider the references cited therein.

In response to this refusal, Applicants note that copies of all U.S. and foreign references were provided along with the 1449 form for each submitted IDS, as required under 37 C.F.R. § 1.98(a)(2). For each IDS submitted, copies of the references were placed in a clearly marked box along with the 1449 forms. Copies of the returned postcards evidencing receipt of the submitted references are submitted herewith.

Since Applicants timely submitted copies of all cited references in each of the 1/31/02 and 7/9/02 IDS's, Applicants respectfully assert that the Examiner is obligated to consider the form 1449's, pursuant to 37 C.F.R. § 1.97. For the convenience of the Examiner, a copy of the references accompanies this Amendment.

Claim Objections

In paragraph 2 of the Office Action, the Examiner objected to claim 14 for lack of formality, stating that the limitation “a lumen” should be “a first lumen” in order to support limitations contained in other dependent claims. According to the Examiner, appropriate correction is required.

In response thereto, Applicants have amended claim 14 to recite “a first lumen”. Applicants respectfully assert that this amendment overcomes the objection raised by the Examiner.

35 U.S.C. § 112 Rejections

In paragraph 4 of the Office Action, the Examiner rejected claims 9-11 and 15-18 under 35 U.S.C. § 112, second paragraph, stating that there is insufficient antecedent basis for various limitations contained in these claims.

In response, Applicants have amended claims 9-11 and 15-18 to provide antecedent basis for each claim limitation. More specifically, Applicants have amended claim 9 to depend from claim 3, and claims 17-18 to depend from claim 14. In addition, Applicants have amended claims 15-16, substituting the phrase “retrieval device” with the word “catheter”. With these amendments, Applicants respectfully assert that claims 9-11 and 15-18 are now in condition for allowance.

35 U.S.C. § 102 Rejections

In paragraph 9 of the Office Action, the Examiner rejected claims 1-12, 29 and 35-37 under 35 U.S.C. § 102(e) as being anticipated by *Green* (U.S. Patent No. 6,485,501). The Examiner states that *Green* discloses a filter system comprising a filter

cartridge having a frame, a frame membrane, a ridge, a radiopaque band, and a retrieval device with a balloon.

Turning first to the rejection of claim 1, Applicants have amended that claim to now recite:

1. (Currently Amended) A distal protection device comprising:
a filter cartridge having a frame portion, a filter portion; and
a proximal region having a ridge for interface with an inflatable cuff disposed on a retrieval device.

As can be seen above, claim 1 now recites a distal protection device including a proximal region having a ridge for interface with an inflatable cuff disposed on a retrieval device. Antecedent support for this amendment can be found, for example, in Figure 1 of the Application, which shows an inflatable cuff (156) on a retrieval device (150) adapted to interface with a ridge disposed on the proximal region (114) of the distal protection device (110).

Unlike the distal protection device recited in claim 1, the filter system suggested by *Green* does not include a proximal region having a ridge for interface with an inflatable cuff disposed on a retrieval device. Figures 28 and 30 of the *Green* reference cited by the Examiner disclose a filter system having a male barb (372) on the proximal marker band (371) of a filter basket (370) that is adapted to engage a female portion (373) of a capture sheath tip (375). While Figure 30 of the *Green* reference does appear to disclose a balloon member on a stent delivery system (380), such balloon member does not interface with any of the components of the filter basket (370), including the male barb (372). Since the *Green* reference does not disclose or suggest a distal protection device including a proximal region having a ridge for interface with an inflatable cuff

disposed on a retrieval device, Applicants respectfully assert that claim 1 is not anticipated under 35 U.S.C. § 102(e).

Because independent claim 1 is allowable, dependent claims 2-12 are also allowable for the reasons stated above, and since they add other significant elements to distinguish them from the cited prior art.

Turning next to the rejection of claim 29, Applicants have amended that claim to incorporate the limitations contained in dependent claim 30, which, according to the Examiner in paragraph 10 of the Office Action, would place the claim in condition for allowance.

Finally, with respect to the rejection of claim 35, Applicants respectfully assert that the *Green* reference does not disclose or suggest a distal protection device including a proximal region having an area with an increased coefficient of friction for interface with a retrieval device. As discussed above, *Green* discloses a filter system having a male barb (372) on a proximal marker band (371) of the filter basket (370) that is adapted to engage a female portion (373) of a capture sheath tip (375). Engagement of the filter basket (370) with the capture sheath tip (375) is accomplished via a male-female barb fitting, not with an area of increased coefficient of friction as recited in claim 35 of the present Application. As such, Applicants respectfully assert that claim 35 is not anticipated under 35 U.S.C. § 102(e).

Because claim 35 is allowable, dependent claims 36-37 are also allowable for the reasons stated above, and since they add other significant elements to distinguish them from the cited prior art.

Allowable Subject Matter

The Examiner states that claims 13-14, 19-28 and 38-42 are allowed. The Examiner further states that claims 30-34 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Applicants respectfully assert that since amended claim 29 now recites the limitations of canceled claim 30, claims 31-34 are now in condition for allowance. Moreover, Applicants respectfully assert that since claim 35 is in condition for allowance, dependent claims 38-42 are also in condition for allowance since they contain all of the limitations of their base claim, and since they add other significant elements to distinguish them from the prior art.

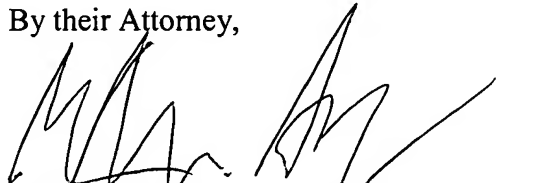
In view of the foregoing, Applicants respectfully assert that all pending claims are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner would like to discuss the Application or its examination, please call the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,

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